

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

Michael F. Hagan	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:
	)	
New Leaf Landscape, LLC, and	)	Removal from the Circuit Court of Jackson
Irving A. Rodriguez Rosa,	)	County, Missouri at Kansas City
	)	Case No. 2216-CV15748
Defendant.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants New Leaf Landscape, LLC and Irving A. Rodriguez Rosa (hereinafter collectively referred to as “Defendants”) hereby give notice of the removal to the United States District Court for the Western District of Missouri of the action styled *Michael F. Hagan v. New Leaf Landscape, LLC and Irving A. Rodriguez Rosa*, Case No. 2216-CV15748, from the Circuit Court of Jackson County, Missouri at Kansas City. Defendants state the following in support of removal:

**STATE COURT ACTION**

1. On July 11, 2022, Plaintiff Michael F. Hagan (“Plaintiff”) filed his Petition in the case styled as *Michael F. Hagan v. New Leaf Landscape, LLC and Irving A. Rodriguez Rosa*, Case No. 2216-CV15748, in the Circuit Court of Jackson County, Missouri at Kansas City (the “State Court Action”).

2. Plaintiff’s Petition in the State Court Action asserts a claim of negligence against Defendants.

3. Removal is timely if it is filed within thirty (30) days after a defendant receives a copy of the initial pleading “through service or otherwise.” 28 U.S.C. §§ 1441 and 1446.

4. Irving A. Rodriguez Rosa was served with process on August 3, 2022.
5. New Leaf Landscape, LLC was served with process on September 2, 2022.
6. This is a civil action over which this Court has original diversity of citizenship jurisdiction under 28 U.S.C. § 1332. As such, Defendants may remove this action under 28 U.S.C. §§ 1441 and 1446.

#### PAPERS FROM REMOVED ACTION

7. A true and correct copy of the court file from the State Court Action is attached hereto as Exhibit A.

#### REMOVAL IS TIMELY

8. A Notice of Removal is required to be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading. 28 U.S.C. § 1446(b).

9. Irving A. Rodriguez Rosa was served with process on August 3, 2022.
10. New Leaf Landscape, LLC was served with process on September 2, 2022.
11. This Notice of Removal is being filed on or before September 2, 2022.

#### VENUE REQUIREMENT IS MET

12. Venue is proper, in that this Court is the United States District Court for the district and division corresponding to the place where the State Court Action was pending. 28 U.S.C. § 1441(a).

#### DIVERSITY JURISDICTION EXISTS

13. Plaintiff is a citizen of the State of Missouri. *See* Exhibit A, Petition ¶ 1.

14. New Leaf Landscape, LLC is a limited liability corporation with its principal place of business in the State of Kansas. None of New Leaf Landscape, LLC's members are citizens of the State of Missouri.

15. Irving A. Rodriguez Rosa is a citizen of the State of Kansas.

16. Accordingly, there exists complete diversity of citizenship in this matter. *See* 28 U.S.C. § 1332(c).

AMOUNT IN CONTROVERSY EXCEEDS \$75,000

17. A district court has original diversity jurisdiction when “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs . . . .” 28 U.S.C. § 1332(a). A district court has subject matter jurisdiction in a diversity case when “a fact finder could legally conclude, from the pleadings and proof adduced to the court before trial, that the damages that the plaintiff suffered are greater than \$75,000.00.” *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002). Accordingly, even in matters where it is not “facially apparent” from a plaintiff’s pleadings that the claimed damages exceed \$75,000, removal can be warranted. *Quinn v. Kimble*, 228 F.Supp.2d 1038, 1040 (E.D.Mo. 2002)(finding remand was not warranted even where plaintiff submitted affidavits alleging damages totaling less than \$10,000.00).

18. In the Petition, Plaintiff alleges personal injury due to the alleged negligence of Defendants. *See* Exhibit A, Petition.

19. Plaintiff claims that Defendants’ negligence caused him to sustain multiple injuries, including permanent injuries, which will require future substantial expense for medicine and medical attention. *See* Exhibit A, Petition ¶ 11.

20. Plaintiff also requests judgment for costs and expenses incurred herein and for such other and further relief as the Court deems just and proper. *See* Exhibit A, Petition, Wherefore clause.

21. Based on Plaintiff's claims of serious injury, past and future medical care, in addition to costs and expenses, a fact finder could legally conclude from Plaintiff's Petition that the amount in controversy in this matter is in excess of \$75,000.

#### REMOVAL IS PROPER

22. Removal is proper, in that (i) this action is a civil action pending within the jurisdiction of the Circuit Court of Jackson County, Missouri; (ii) this action could have been brought in this jurisdiction; and (iii) the parties are completely diverse. 28 U.S.C. §§ 1441 and 1446.

23. The U.S. District Court for the Western District of Missouri, Western Division, is the appropriate court for removing this action. *See* 28 U.S.C. §§ 1441(a) and 1446(a); Local Rule 3.2(a)(3).

#### FILING OF REMOVAL PAPERS

24. Promptly upon filing this Notice of Removal, Defendants will give notice in writing to all parties and will file a copy of this Notice of Removal with the Clerk of the Circuit Court of Jackson County, Missouri, as required by 28 U.S.C. § 1446(d).

#### JURY TRIAL DEMANDED

25. Defendants request a jury trial on all matters.

#### DESIGNATION OF PLACE OF TRIAL

26. Defendants hereby designate Kansas City, Missouri as the place for trial.

#### CONCLUSION

WHEREFORE, Defendants New Leaf Landscape, LLC and Irving A. Rodriguez Rosa do hereby give notice of the removal of the above-captioned action from the Circuit Court of Jackson County at Kansas City, State of Missouri, and requests that further proceedings be conducted in this Court as provided by law.

DATED: September 2, 2022.

Respectfully submitted,

**FOLAND, WICKENS, ROPER,  
HOFFER & CRAWFORD, P.C.**

*/s/ Joseph J. Roper*

JOSEPH J. ROPER # 36995

TORREY J. DARIN #70936

One Kansas City Place

1200 Main Street, Suite 2200

Kansas City, Missouri 64105

Telephone: (816) 472-7474

Facsimile: (816) 472-6262

Email: [jroper@fwpcclaw.com](mailto:jroper@fwpcclaw.com)

Email: [tdarin@fwpcclaw.com](mailto:tdarin@fwpcclaw.com)

*Attorneys for Defendants*

*New Leaf Landscape, LLC and Irving A.  
Rodriguez Rosa*

### **CERTIFICATE OF SERVICE**

I hereby certify that, on the 2<sup>nd</sup> day of September, 2022, I electronically filed the foregoing with the Clerk of the District Court by using the CM/ECF/PACER system, which will send notice of electronic filing to counsel of record. I further certify that a copy of the foregoing document was served via email upon the following:

THOMAS STEIN  
THOMAS STEIN, P.C.  
1660 Lightwell  
1100 Main  
Kansas City, MO 64105  
Phone: (816) 471-4747  
Fax: (816) 471-4949  
E-mail: [tomstein@sbcglobal.net](mailto:tomstein@sbcglobal.net)  
**ATTORNEY FOR PLAINTIFF**

/s/ Joseph J. Roper  
JOSEPH J. ROPER # 36995  
**Attorneys for Defendants**  
**New Leaf Landscape, LLC and Irving A.**  
**Rodriguez Rosa**